

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

Title 15, United States Code,
 Section 1 -- Price Fixing

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on

SHOW
DOCKET NO.

☐ U.S. Att'y ☐ Defense
 this prosecution relates to a pending case involving this same defendant

MAGISTRATE
CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person
 Furnishing Information on
 THIS FORM

KEVIN V. RYAN

☒ U.S. Att'y ☐ Other U.S. Agency

Name of Asst. U.S. Att'y
 (if assigned)

MICHAEL L. SCOTT, Trial Attorney, USDOJ, ANTITRUST DIVISION
 ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS*

☐ WARRANT Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

BAYER AG

DISTRICT COURT NUMBER

CR 04-0235

DEFENDANT

IS NOT IN CUSTODY

1) ☒ Has not been arrested, pending outcome this proceeding.
 If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction

6) ☐ Awaiting trial on other

☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution

Has detainer
 been filed?

☐ Yes
☐ No

If "Yes"
 give date
 filed

DATE OF
 ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
 TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

PENALTY SHEET

Company: BAYER AG

Maximum Penalties:

1. A fine in an amount equal to the largest of:
 - A. \$10 Million.
 - B. Twice the gross pecuniary gain derived from the crime.
 - C. Twice the gross pecuniary loss caused to the victims of the crime.
2. A term of probation of at least one year but not more than five years.
3. \$400 special assessment.
4. Restitution.

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

PJH

CR 04-0235

11 UNITED STATES OF AMERICA)

No. CR 04-

12 v.)

INFORMATION

13 BAYER AG,)

VIOLATION:

14 Defendant.)

Title 15, United States Code,
Section 1 (Price Fixing)

15 San Francisco Venue

16 The United States of America, acting through its attorneys, charges:

17 I.

18 DESCRIPTION OF THE OFFENSE

19 1. BAYER AG is made a defendant on the charge stated below.

20 2. Beginning in or about July 1995 and continuing until in or about December 2001,
21 defendant and co-conspirators participated in a combination and conspiracy to suppress and
22 eliminate competition by maintaining and increasing the price of certain rubber chemicals sold in
23 the United States and elsewhere. The combination and conspiracy engaged in by the defendant
24 and co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in
25 violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

26 3. The charged combination and conspiracy consisted of a continuing agreement,

INFORMATION -- BAYER AG -- PAGE 1

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RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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1 understanding, and concert of action among the defendant and co-conspirators, the substantial
2 term of which was to suppress and eliminate competition by maintaining and increasing the price
3 of certain rubber chemicals in the United States and elsewhere.

4 4. For the purpose of forming and carrying out the charged combination and
5 conspiracy, the defendant and co-conspirators did those things that they combined and conspired
6 to do, including, among other things:

- 7 (a) participating in conversations and meetings to discuss prices of certain rubber
8 chemicals to be sold in the United States and elsewhere;
- 9 (b) agreeing, during those conversations and meetings, to raise and maintain prices of
10 certain rubber chemicals to be sold in the United States and elsewhere;
- 11 (c) participating in conversations and attending meetings concerning implementation
12 of and adherence to the agreements reached;
- 13 (d) issuing price announcements and price quotations in accordance with the
14 agreements reached; and
- 15 (e) exchanging information on the sale of certain rubber chemicals in the United
16 States and elsewhere.

17 II.

18 DEFENDANT AND CO-CONSPIRATORS

19 5. The defendant is an entity organized and existing under the laws of Germany, with
20 its principal place of business in Leverkusen, Germany. During the period covered by this
21 Information, the defendant engaged in the business of producing and selling certain rubber
22 chemicals in the United States and elsewhere.

23 6. Various corporations and individuals, not made defendants in this Information,
24 participated as co-conspirators in the offense charged herein and performed acts and made
25 statements in furtherance of it.

26 7. Whenever in this Information reference is made to any act, deed, or transaction of
INFORMATION -- BAYER AG -- PAGE 2

1 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction
2 by or through its officers, directors, employees, agents, or other representatives while they were
3 actively engaged in the management, direction, control, or transaction of its business or affairs.

4 III.

5 TRADE AND COMMERCE

6 8. Rubber chemicals are a group of additives used to improve the elasticity, strength,
7 and durability of rubber products. Rubber chemicals are used primarily in the manufacture of
8 tires, outdoor furniture, hoses, belts, and footwear.

9 9. During the period covered by this Information, the defendant and co-conspirators
10 manufactured, sold, and distributed rubber chemicals in a continuous and uninterrupted flow of
11 interstate and foreign trade and commerce to customers located in states or countries other than
12 the states or countries in which the defendant and co-conspirators produced rubber chemicals.

13 10. The business activities of the defendant and co-conspirators that are the subject of
14 this Information were within the flow of, and substantially affected, interstate and foreign trade
15 and commerce.

16 IV.

17 JURISDICTION AND VENUE

18 11. The combination and conspiracy charged in this Information was carried out, in
19 part, in the Northern District of California within the five years preceding the filing of this
20 Information.

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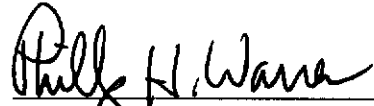
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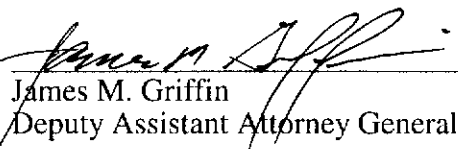
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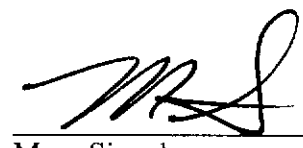
1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

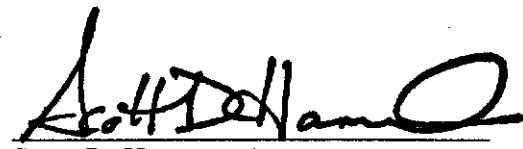
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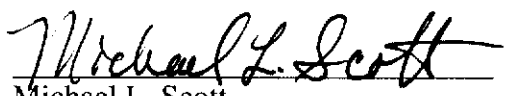
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5 R. Hewitt Pate
6 Assistant Attorney General

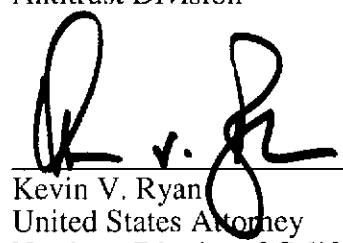

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